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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,000	07/09/2003	Earl Littman	1656.002	1040
7590 Kenneth A. Roddy Suite 100 2916 West T.C. Jester Houston, TX 77018				
EXAMINER				
LASTRA, DANIEL				
ART UNIT		PAPER NUMBER		
3688				
MAIL DATE		DELIVERY MODE		
11/05/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/616,000

Applicant(s)

LITTMAN ET AL.

Examiner

DANIEL LASTRA

Art Unit

3688

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 50-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 50-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

1. Claims 50-61 have been examined. Application 10/616,000 (METHOD AND SYSTEM OF ADVERTISING) has a filing date 07/09/2003 Claims Priority from Provisional Application 60429225 (11/26/2002).

Response to Amendment

2. In response to Final Rejection filed 11/14/08, the Applicant filed an RCE on 08/18/10.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 5-51, 54-57 and 59-61 are rejected under 35 U.S.C. 102(e) as being anticipated by Klayh (US 2003/0103644).

Claims 50, 57, Klayh teaches:

An electronic advertising system for providing advertising to a consumer at a location proximate to a display of consumer goods, comprising: an advertising player disposed proximate to a display of consumer goods (see paragraph 17 "terminal at a gas bar"), said advertising player containing a processor, memory storage means coupled to said processor, a communication device coupled to

said processor for receiving and transmitting digital video and audio advertising media and data (see paragraph 194 "player displays video and audio advertisements"), a sensing device coupled to said processor of said advertising player for sensing the presence of a consumer proximate to said advertising player (see paragraph 19 "detecting presence of a person adjacent display apparatus"), and a video encoder and display and an audio encoder and speaker coupled to said processor for reproducing and playing video and audio advertisements from the digital video and audio media and data (see paragraph 194 "player plays video and audio advertisements");

said processor programmed to store received digital video and audio advertising media and data in said memory storage means and, upon detection by said sensing device, of the presence of a consumer proximate to the display of consumer goods, to retrieve an advertisement stored in said memory means containing information related to the consumer goods proximate to said advertising player (see paragraphs 18-19 "storing plural of ads in memory and upon detecting of person adjacent a merchant display apparatus, selecting an advertisement to display related to said merchant"), and to play the retrieved advertisement via said video display and audio speaker (see paragraph 194 "player plays video and audio advertisements"); and said processor programmed to store in said memory means the number of times an advertisement was played in a given period of time (see paragraph "advertisement can be changed based upon how many times it has been run"), and to transmit, via said communication device, statistical data relative to advertisements played by said advertising player to external devices (see paragraph 35-45 "server controls the

schedule of advertisement based upon viewing history of advertisement (see paragraph 51) stored in server database (see fig 1 item 9) where said history is communicated to said server from clients computers displaying the ads to users (see fig 1)).

Claim 51, Klayh teaches:

Wherein said sensing device comprises a sensing device selected from the group consisting of a motion detector, an ultrasonic sensor, an optical sensor device, a magnetic flux change sensor, and a radio frequency identification tag reader (see paragraph 173 "infrared detector").

Claims 54, 59, 60, Klayh teaches:

a server disposed remote from said advertising player, said server connected with a controller processor, a communication device coupled to said controller processor and in communication with said communication device of at least one said advertising player for transmitting and receiving digital video and audio advertising media and data there between (see paragraphs 35-37, 194); said server having memory storage means connected with said controller processor; said memory storage means containing a database of advertisers, a database of locations of each said advertising player, a repository database of digital video and audio advertising media and data stored in said memory of each said advertising player, and a database of advertising records (see paragraphs 35-37); and

said server operative to download digital video and audio advertising media and data to each said advertising player, to query each said advertising player to determine statistics relative to advertisements played thereby, to alter the sequence of playing

advertisements stored in said memory of each said advertising player, to delete selected advertisements from said memory of each said advertising player, to transmit new digital video and audio advertising media and data to be stored in said memory of each said advertising player, and to track the status of each said advertising player (see paragraph 14 "how many time an ad has been display in the ad player").

Claims 55, 61, Klayh teaches:

a work station coupled to said server for generating advertising media in digital video and audio formats and storing said generated advertising media in said server memory storage means (see paragraph 194).

claim 56, Klayh teaches:

wherein said communication device of said advertising player and said communication device of said server comprise a communication device selected from the group consisting of a wireless communication device, a radio frequency transceiver, a network interface, a digital subscriber line, a satellite transceiver, and a communication cable (see paragraph 3).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klayh (US 2003/0103644).

Claim 52, Klayh does not teach:

Wherein said video display comprises a touch screen control panel for interactively providing information to the consumer. However, Official Notice is taken that it is old and well known to use touch screens. It would have been obvious to a person of ordinary skill in the art at the time the application that Klayh would use touch screen in order to allow users to interact with ads.

7. Claims 53 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klayh (US 2003/0103644) in view of MacLean (US 5,771,778).

Claims 53, 58, Klayh does not teach:

a chemical dispersing device operatively connected with said advertising player and coupled to said processor for releasing an odor producing chemical capable of being perceived by the olfactory sense of a consumer upon detection by said sensing device of the presence of the consumer proximate to the display of consumer goods. However, MacLean teaches ad player releasing an odor upon detecting presence of a person proximate to player (see col 4, lines 25-30). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application that Klayh would modify his invention to release an odor upon detecting the presence of a person proximate an ad player, as taught by MacLean in order to attract said person to said player.

Response to Arguments

8. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN WEISS can be reached on (571) 272-6812. The official Fax number is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DANIEL LASTRA/
Primary Examiner, Art Unit 3688